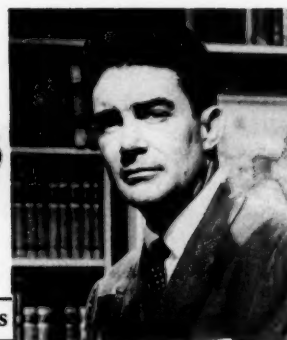


THE *Dan Smoot Report*

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Dallas, Texas



DAN SMOOT

Freedom and the IRS

On page 1 of *U. S. News & World Report* for August 29, 1958, there is a full-page advertisement.

The top half of the page bears the picture of a handsome little boy, about 5, gazing winsomely at four objects on a desk: a Bible, a key, a pencil, and a ballot.

Beneath the picture, this question is headlined: *Will You Leave These Freedoms to Your Children?*

The text of the advertisement, taking up the remainder of the page, says:

Men have died to leave you these four symbols of freedom:

A Holy Bible — symbol of your right to worship as you wish (First Amendment, U.S. Constitution).

A door key — your right to lock your door against illegal government force and prying (Fourth Amendment, U.S. Constitution).

A pencil — freedom to speak or write what you think, whether you agree with the government or not (First Amendment, U.S. Constitution).

And a free ballot — your right to choose the people who represent you in government — your protection against government tyranny (Article I, U.S. Constitution).

Half the world is trying to destroy these 4 symbols and what they stand for.

Even in this country, there are people who threaten our freedoms, by trying to give the U.S. government more and more control over American life.

They have a start — already the government runs hundreds of different kinds of business in competition with its own citizens. And you read about proposals that government take over even more.

The electric light and power business, for example. The federal government already runs some of it. And Congress is being pressed to take over still more. Even though every such step leads down the road to socialism, one thing most Americans don't want.

If socialism comes to America this way — step by step — you'll never have a chance to vote for or against it. For by that time, government will control your job, your independence, your thinking. Then what freedoms will you be able to pass on to your children?

THE DAN SMOOT REPORT, a magazine edited and published weekly by Dan Smoot, mailing address P. O. Box 9611, Lakewood Station, Dallas 14, Texas, Telephone TAYlor 4-8683 (Office Address 6441 Gaston Avenue). Subscription rates: \$10.00 a year, \$6.00 for 6 months, \$3.00 for 3 months, \$18.00 for two years. For first class mail \$12.00 a year; by airmail (including APO and FPO) \$14.00 a year. Reprints of specific issues: 1 copy for 25¢; 6 for \$1.00; 50 for \$5.50; 100 for \$10.00—each price for bulk mailing to one person.

This full-page ad was financed, as institutional advertising, by America's Independent Electric Light and Power Companies.

Is there anything wrong with this? I don't think so. Indeed, I think that sponsoring such advertisements is the sort of thing that American business firms have a moral, as well as a selfish, responsibility to do.

But Harry Truman thinks it is wrong—and Harry is not the only one.

HARRY TRUMAN SPEAKS

On May 26, 1952, Harry S. Truman, then President of the United States, held up just such a full-page magazine ad as I have described, waved it at an applauding audience, and called it "vicious," "evil," and "illegal."

The magazine ad which Truman condemned was, as indicated, very much like the one above. It was sponsored by America's Independent Electric Light and Power Companies. Its message warned that the rapid growth of socialism, particularly in the field of electrical power production, was a grave danger to America's free institutions, and said that the development of electrical power with private capital, rather than with tax money, was the true American way.

Harry Truman claimed that the private power companies, by such ads, were "trying to poison the minds of people" against the government's efforts (such as TVA) to take over the power industry in America.

And, of course, Harry had a remedy to suggest: he threatened to prosecute the private power companies for daring to call socialism socialism.

Harry said:

This private power propaganda takes the line that government development of electric resources is socialism. The private power companies are spending millions and millions of dollars on this campaign. And the tax collections of the government are not so great because they charge these ads off as expenses of operation.

I think I will ask the attorney general to take a look at this situation and see if the corrupt practices act doesn't apply.

Truman's Secretary of the Interior, Oscar Chapman, was present; and so was Senator Lister Hill of Alabama. Both made speeches supporting Truman's point of view: condemning private power companies and urging rapid expansion of government-owned power facilities.

The President, the Secretary, and the Senator all complained because the private power companies, in charging their patriotic institutional ads off as business expense, were thus reducing the volume of taxes which they paid into the federal treasury.

And, as you might guess, there was not one tax-paying organization represented in the audience which applauded these fair-deal worthies. President Truman and Secretary Chapman and Senator Hill were speaking to a Washington conference of Electric Consumers, sponsored by AFL and CIO unions, the National Farmers Union, and rural electric cooperatives.

SOCIALISTS NEVER QUIT

All of this was long ago. Why bring it up now?

As I have said many times, the socialists never give up or compromise. If they can't get what they want by legal or constitutional means, they get it by illegal or unconstitutional means. By one means or another, the socialists get what they want; and they will continue to get it until the American taxpayers face the issue squarely and cut the tap root (the federal income tax) which nourishes all such politicians as Harry Truman, Oscar Chapman, Lister Hill, Estes Kefauver, Dwight Eisenhower—all new-fair deal democrats and modern republicans, who are socializing America by forcing private industry to subsidize its main competitor, government-owned industry.

Truman was unsuccessful in getting his attorney general to prosecute private power

companies for their free-enterprise advertising. The advertising which Truman called vicious and illegal is not a violation of any federal law, not even of the Federal Corrupt Practices Act which Truman specifically mentioned. Moreover, Harry did not remain in office very long after making his threat on May 26, 1952.

Thanks to the second session of the 85th Congress, just adjourned, and to President Eisenhower, who proved themselves more generous in spending American tax money than any administration or Congress before them, Harry Truman can now live out his life in lush retirement on a generous pension paid for, in part, by those same private power companies which Truman wanted to prosecute because they complained about socialism.

But the seeds which Harry sowed in 1952 did not die. They sprouted and grew, and their growth reached harvest time in 1958.

There is no federal law to prevent business men from sponsoring patriotic advertising. What then, must the socialists do? Why, they must make such a law. How? When we had a constitutional republic, only Congress could make laws for the nation.

The leadership of the last Congress of the United States (the 85th) was controlled by union bosses. I pointed this out in the May 12, 1958, and in the June 9, 1958, issues of this *Report*. The 85th Congress proved that I was right by refusing to pass widely wanted and urgently needed laws to curb the brutal tyranny and vicious corruption of union leadership, and by rejecting all attempts to limit the unconstitutional activities of a Supreme Court which is dictating the kind of society that union bosses want.

Nonetheless, even though the leadership of Congress has been controlled by union bosses for several years, Congress as a whole is still sensitive (if not always directly responsive) to the public will. The public will is not yet in condition for Congress to make a law that

would prosecute American businessmen for defending the principles of American free enterprise. No effort has been made to get such legislation enacted in Congress. That would "stir up the animals"—as new-fair-deal-modern-republicans sometimes say, when urging their own extremists to be subtle and devious in order to avoid inflaming public opinion against some particular socialist scheme.

The socialists are resourceful. If it seems bad strategy to push for some desired law in Congress, they can get the Supreme Court to proclaim something which will be called "the law of the land." Or, if that is not feasible, they can resort to that remarkable system which has grown up since 1934 and which is called "administrative law." Just get some administrative bureau to write a new regulation and quietly publish it in the *Federal Register*; and the new regulation will then become "law of the land" without the knowledge of Congress or of the people.

This is the tack that was taken with regard to the independent power companies which run ads condemning socialism and praising freedom.

KEFAUVER TAKES OVER

After Harry Truman left Washington, Senator Estes Kefauver led the fight against the patriotic advertising of private power companies.

Kefauver, a little more subtle than Truman, didn't talk about *prosecuting* the private power companies: he just put pressure on the Internal Revenue Service to disallow, as legitimate advertising expense, all contributions which private power and utilities companies make to the advertising campaign against government-owned electrical power and in favor of private power. This would stop the patriotic advertising. Full-page ads in national magazines cost lots of money. The private power companies, just as Truman said, spend millions on this advertising campaign. If they can't

claim it as advertising expense, they can't possibly afford it.

At first, the Internal Revenue Service, under its own regulations (its administrative law), could not disallow the advertising expenses. It was necessary to change the administrative law. This was done.

On July 10, 1956, the Internal Revenue Service published in the *Federal Register* a new regulation which would authorize the Service to disallow the private power company ads, as advertising expense, if it wanted to. In other words, the Internal Revenue Service merely wrote itself a new law: no point in bothering Congress and the American people about such things, you know.

Then, on February 20, 1957, Internal Revenue Service Commissioner Russell C. Harrington notified Senator Kefauver that the field forces of the Internal Revenue Service had been instructed to make a complete study of the problem.

On February 13, 1958, Commissioner Harrington wrote Kefauver the following letter:

This is in reference to your letter of January 18, 1958, and our previous correspondence regarding the tax treatment of the cost of advertisements sponsored by "America's Independent Electric Light and Power Companies."

Some time ago, I informed you that I had directed the field forces to study this matter. The results of this study have been carefully analyzed, and it has been held that the contributions paid by the participating electric companies for the advertisements mentioned above do not constitute allowable deductions. All of our field offices have been so informed.

I trust that the information contained herein is sufficient for your purposes in this matter. I wish to thank you for your interest in this matter.

As soon as he received that letter the next day (February 14, 1958) Kefauver called in the press and jubilantly released the news.

Kefauver said:

They (the private power companies) can continue to propagandize as much as they want in their advertisements They can no longer charge the taxpayers and the rate payers for their own brainwashing.

Simultaneously with this Internal Revenue Service ruling which would prevent private power companies from telling their free-enterprise story through advertising — almost at the very moment when Kefauver was gloating that private companies "can no longer charge the taxpayers and the rate payers for their own brainwashing"—the Tennessee Valley Authority (the original, and still prime, example of socialized power) was releasing (at the expense of all taxpayers and rate payers in America) for massive national distribution a 25,000-word "News Kit" in celebration of TVA's twenty-fifth anniversary. The Kit, whose publication cost taxpayers at least \$100,000.00, extols the virtues of public (i.e., socialized) power.

This one item of government-power brainwashing is inconsequential when compared with the countless millions of tax dollars that have been spent through the years to brainwash the people into believing that socialized power is good. This one item is hardly worth mentioning when compared with the billions of tax dollars that have been wasted on government projects featuring spectacular power dams whose impounded waters destroy rich farm and timber lands worth infinitely more than all the power produced by the big dams. Senator Kefauver's dishonest dig about the private power companies charging taxpayers and rate payers for "their own brainwashing" is a scurvy and unimportant remark when considered along side the fact that government heavily penalizes all taxpayers in the nation for the political purpose of providing below-cost electrical power to power consumers in chosen areas.

But it is interesting to observe that Kefauver triumphantly made his announcement of the new tax ruling against private power com-

panies at the very moment when tax-supported propaganda for government power was being increased.

BACKING AND FILLING

There is an encouraging sequel to all this.

Notice that the Internal Revenue Service announced its new ruling against private power companies in the letter to Kefauver on February 13, 1958. At the outset of this article, I described and quoted a patriotic ad—precisely the kind that the IRS had ruled against—which was published August 29, 1958.

What has happened? Are the private power companies openly defying this new tax "law"? Not exactly: they are contesting it.

But there is even more to it than that. The bureaucrats have started backing and filling, as they always will do when taxpayers (the people who pay the bureaucrats' salaries) protest strongly enough.

There has been little publicity about this sinister tax ruling which could, if allowed to stand, starve out all efforts to resist the socialist revolution in America. The great free press of America has practically ignored something which could develop into one of the most harmful single blows ever delivered against freedom in America.

I saw nothing in the press about the IRS ruling of February 13, 1958, until May 20, 1958, when Ray Tucker devoted his syndicated column to the subject.

On May 22, 1958, a little paper in New Mexico, the *Roswell Daily Record*, discussed the subject in a fine editorial.

On June 21, 1958, the *Saturday Evening Post* ran a splendid lead editorial, saying:

Few taxpayers know the extent of the authority that has been conferred on the Internal Revenue Service and even less of the added authority which that bureau has assumed for itself by means of

administrative rulings and regulations which Congress probably never thought of.

For example, it is hard to believe that the nation's lawmakers meant to give tax collectors the right to decide that American business or industry should be penalized for stating its case and defending its right to exist, in the face of government-sponsored competition, by means of paid advertisements. But that is what the tax authorities are doing. . . .

The victims of the most recent interpretation of this ruling are a group of public-utility companies which call themselves America's Independent Light and Power Companies. These companies have for many years sponsored "institutional advertisements"—mostly in magazines, including THE SATURDAY EVENING POST—which promote the wider use of electric power and occasionally indicate a preference for investor-owned utility companies as against government-owned plants supported by the taxpayers. Most of the advertisements indicate in some way the advantage of being served by an "independent" power company. If this is "propaganda," it certainly represents an attitude acceptable to some millions of Americans.

Nevertheless, the companies participating in this advertising campaign are being informed that they may not deduct its cost from their taxable incomes. . . . The net of the IRS's ruling is that the private-utility industry, already forced to meet tax favoritism and vast public appropriations for public power, must jump over another hurdle.

Supposing that all the advertisements in the series dealt with the public-power issue, it is difficult to equate them with an effort to 'influence legislation,' or to 'lobby' or, if propaganda is the charge, to do more than defend what has long been considered the normal way for Americans to do business. Surely if an electric power company may engage in propaganda against competitors who sell gas, or coal, or atomic energy, it ought not to be penalized for defending itself against competition which threatens its ability to stay in business at all. . . .

The principle involved requires a frank statement of what such rulings can mean to freedom, not merely for public-utility advertising, or even advertising in general, but for freedom to express any views which tax bureaucrats—perhaps stimulated by political demagogues—decide to penalize.

This is the crux of the situation. We have tax authorities, who are assumed to be raising money for public needs, undertaking to dictate to individ-

uals and corporations how they shall carry on their businesses.

Nor is this threat confined to public-utility companies. Other types of business live in jeopardy from the same ukase, including one company which undertook to explain its side of a threatened strike by means of newspaper advertisements. . . .

BUREAUCRATESE

Let's take a fascinating sampling of the second-think and double-speak of bureaucrats.

Consider again Commissioner Russell C. Harrington's February 13, 1958, letter to Senator Estes Kefauver, quoted in full above. Does the Commissioner say anything about this matter being "still under consideration"? No, he treats it as something fully considered and finally acted upon.

Does Commissioner Harrington speak of the ruling against private power companies as "proposed regulations" which have not yet been definitely decided on? No, the tone of his letter is flat and final — the Internal Revenue Service has spoken: so be it.

Now, compare the tone and language of Commissioner Harrington's letter to Kefauver dated February 13, 1958, with the tone and language of Commissioner Harrington's letter to me dated July 10, 1958.

As indicated, there had been little publicity on this subject between February 13 and July 10; but the Ray Tucker column and the *Saturday Evening Post* editorial (and perhaps one or two others that I missed) were enough to start that backing and filling which I mentioned.

On July 10, 1958, Mr. Russell C. Harrington, Commissioner of Internal Revenue Service, wrote me, beginning his letter as follows:

This is in reply to your letter of June 19, 1958 . . . concerning the Federal income tax treatment of the costs of certain advertisements sponsored by "America's Independent Electric Light and Power Companies." You request a copy of our ruling and full particulars concerning it.

It has been the long-established policy of the Internal Revenue Service to furnish copies of rulings with respect to a particular taxpayer's liability only to the taxpayer himself or his duly authorized representative.

Perhaps: but notice that Commissioner Harrington did furnish copies of the ruling with respect to the independent power companies' liability to Senator Kefauver, before the taxpayers themselves had been furnished copies, apparently; and Estes Kefauver is certainly no "duly authorized representative" of the private power companies.

But that is unimportant; I already had a copy of the ruling which I asked Commissioner Harrington to send me. I just wanted to see what he would say.

Here is the important portion of Commissioner Harrington's letter to me:

Section 1.162-15 (c) of the proposed regulations, published in the Federal Register for July 10, 1956, which are still under consideration, provides in part that expenditures for lobbying purposes, for the promotion or defeat of legislation, for political purposes, or for the development or exploitation of propaganda (including advertising other than trade advertising) relating to any of the foregoing purposes, are not deductible from gross income.

Notice that the tax ruling, which Mr. Harrington on February 13 had made to sound so final and definitive, is now (July 10) referred to as "proposed regulations . . . still under consideration."

Commissioner Harrington said to me:

Whether an expenditure for advertising is made for one of the prohibited purposes must be determined from an examination of all the pertinent facts and circumstances of each particular case.

In blunt English, this means that the tax collectors will make and interpret their own laws — make up the rules as they go along. If they want to crack down on someone and think they can do so without stirring up too much trouble for themselves, they will do so. If they don't want to, or think they might kick

up a storm if they try, they'll go on to another case.

Mr. Harrington concluded his letter to me with the following paragraph:

The proposed regulations do not represent a change in the position of the Internal Revenue Service regarding the deductibility of expenditures for advertising, including institutional, educational and long-range advertising. As in the past, such expenditures will continue to be deductible as business expenses provided they are ordinary and necessary and are not for the prohibited purposes listed earlier. These proposed regulations are similar in substance to regulations which have been in effect for many years and which have been upheld by the Supreme Court of the United States.

WHAT CAN WE DO?

If both the Supreme Court and the Internal Revenue Service have spoken, can mortal man or mere taxpayer say more?

Well, we can ask a few timid questions: such as —

If the "proposed" regulations don't "represent a change," why propose them?

If the "proposed" regulations are similar in substance to regulations which have been in effect for many years and which have been upheld by the Supreme Court, why . . . ?

Do they write new "administrative laws" just for the fun of it? Or, do they have a bunch of government clerks who have to be kept busy doing *something*? Does Commissioner Harrington's letter mean what it says? Or, does it mean anything at all?

Having asked ourselves such questions and having searched in vain for answers that would satisfy sensible men, we can move on to more productive effort.

Individual taxpayers who care can demand of every federal politician who needs a vote that the responsibility for writing federal tax laws be taken away from appointed bureaucrats and be placed once again where the Constitution says it should be placed: in the elected Congress of the United States.

That may not get dramatic results; but if enough individuals would do it, it would discomfit the bureaucrats and make them chary about whom they crack down on next.

If enough of us would do enough to make some real progress against the Washington tax collectors and tax eaters and tax spenders, we might drum up enough courage and leadership to take the final step necessary for the restoration of American constitutional government: repeal the federal income tax amendment.

WHO IS DAN SMOOT?

Dan Smoot was born in Missouri. Reared in Texas, he attended SMU in Dallas, taking BA and MA degrees from that university in 1938 and 1940.

In 1941, he joined the faculty at Harvard as a Teaching Fellow in English, doing graduate work for the degree of Doctor of Philosophy in the field of American Civilization.

In 1942, he took leave of absence from Harvard in order to join the FBI. At the close of the war, he stayed in the FBI, rather than return to Harvard.

He served as an FBI Agent in all parts of the nation, handling all kinds of assignments. But for three and a half years, he worked exclusively on communist investigations in the industrial midwest. For two years following that, he was on FBI headquarters staff in Washington, as an Administrative Assistant to J. Edgar Hoover.

After nine and a half years in the FBI, Smoot resigned to help start the Facts Forum movement in Dallas. As the radio and television commentator for Facts Forum, Smoot, for almost four years spoke to a national audience giving both sides of great controversial issues.

In July, 1955, he resigned and started his own independent program, in order to give only one side — the side that uses fundamental American principles as a yardstick for measuring all important issues. Smoot now has no support from, or connections with, any other person or organization. His program is financed entirely from sales of his weekly publication, *The Dan Smoot Report*.

If you believe that Dan Smoot is providing effective tools for those who want to think and talk and write on the side of freedom, you can help immensely by subscribing, and encouraging others to subscribe, to *The Dan Smoot Report*.

Government would then be compelled to spend its revenue for legitimate constitutional purposes. Many of the major economic and political ills of our time would vanish, because most of them are created and nourished with money which the federal tax collectors take out of your paycheck.

Another blessing not to be overlooked: if we repealed the federal income tax, thus making it impossible for politicians to buy votes by promising voters something to be paid for by someone else, such characters as Estes Kefauver might soon be retired from public life.

* * * * *

Public Power

Although Harry Truman and Estes Kefauver, and other advocates of "public power" bristle when you call something like Tennessee Valley Authority socialism, there is no other logical name for TVA — unless you want to call it Sovietism. There is evidence that the TVA was a Soviet idea borrowed from the Soviets.

During a conversation with Joseph Stalin at Yalta on February 7, 1945, President Roosevelt (according to notes made by Charles Bohlen and published by the State Department in the official Yalta Papers) "mentioned that in

the Soviet Union and its various republics, consideration had been given to the problem of a country as a whole, and in the United States the TVA had the same idea. He mentioned that in the region of the TVA, electric current was sold at the same price throughout the area."

* * * * *

More of the Same

On May 5, 1958, Russell C. Harrington, Commissioner of Internal Revenue Service, wrote to the Association of American Physicians and Surgeons Freedom Programs, Inc., explaining why the Freedom Programs activity was being denied the same tax exemption which has been given to such outfits as the NAACP, the American Association for the United Nations, Atlantic Union, and so on.

Commissioner Harrington said:

You state . . . the sole purpose of . . . Freedom Programs is the support of principles clearly enunciated in the Constitution and Bill of Rights, through educational means. . . .

Opposing socialization of the medical or other segment of the economy or supporting the principles of individual liberty and freedom of individuals in the medical profession or elsewhere, the dissemination of information on the advantages of our American free enterprise system, or the support of the principles enunciated in the Constitution and Bill of Rights are not in our opinion, per se educational functions or objectives.

If you do not keep a permanent file of *The Dan Smoot Report*, please mail this copy to a friend who is interested in sound government.

DAN SMOOT,
P. O. Box 9611, Lakewood Station
Dallas 14, Texas

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